IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5128 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MANAVADAR MUNICIPAL BOROUGH

Versus

MANISH K KHAKKHAR

Appearance:

MR YOGESH S LAKHANI for Petitioner No. 1

Mr.Amar D. Mithani for MR HARIN P RAVAL for Respondent No. 1

CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 11/07/2001

ORAL JUDGEMENT

Rule. Mr.Amar D. Mithani, learned advocate waives service of the rule.

2. The Municipal Borough has challenged the award dated 4.2.2000 passed by the Labour Court, Junagadh in

Reference (LCJ) No.176 of 1995. By the said judgement and award the reference made by the respondent workman was allowed and he was ordered to be reinstated with full back wages and other consequential benefits and cost of Rs.1500/-, is awarded. Taking into consideration the case of the petitioner the Municipal Borough that the person was appointed initially in the House Tax Branch and thereafter his services were utilised for Identity Card and election work. The appointment was only temporary one for limited work. However, the Labour Court having taken into consideration the violation of sec.25F and in view of the decision of the Apex Court reported in 1997 FLR 218, has passed the aforesaid order.

3. Taking into consideration the aspect that the petitioner Municipal Borough will be required to pay idle wages from 28.4.1995 till the workman is reinstated. The award is dated 4.2.2000. So, for more than five years idle wages will be required to be paid

4. Heard Mr.Amar D. Mithani, learned advocate appearing for the respondent workman. After some discussion a consensus is arrived at, whereby the petitioner Municipal Borough is ready to accommodate the respondent workman in service as the respondent workman is ready to forego back wages.

5. In view of the above, the impugned award of the Labour Court is modified to that extent. Order awarding back wages is quashed and set aside. The award to the extent of reinstatement with continuity of service stands. The Municipal Borough shall reinstate the respondent workman within four weeks from today.

6. The petition stands disposed of accordingly. Rule is made absolute in the aforesaid terms. No order as to costs.

(Ravi R. Tripathi, J.)

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